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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,953	12/12/2003	Larry D. Brown	HENTE-088A	1455
7663 7590 07/09/2007 STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656			EXAMINER LE, TAN	
			ART UNIT 3632	PAPER NUMBER
			MAIL DATE 07/09/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/734,953	<b>Applicant(s)</b> BROWN ET AL.	
	<b>Examiner</b> Tan Le	<b>Art Unit</b> 3632	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) 10-14, 21, 23, 34-50, 65 and 66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 15-20, 22, 24-33 and 51-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant's reply filed 11/13/06 is acknowledged. Claims 1-68 are currently pending. Claims 10-14, 21, 23, 34-50, 65-66 were withdrawn.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/13/06 has been entered.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-6, 15, 17-20, 22, 25-33, 51-64 and 67-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent no. 6,126,122 to Ismert.

As to claims 1 and 2, 67 and 68, Ismert teaches a clamp base 11 (see attached figured) having a pair of ratchet arms 41, 42 extending outwardly from the base, each arm having a plurality of ratchet teeth (14), the clamp base having a first support including at least two inclined surfaces 22 forming a generally V-shaped, each of these

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inclined surface having a side; a clamping block 31 (Fig. 2) having openings (32, 42, 43) for the ratchet arms, the clamping block having a pawl 43 located in each opening with at least one tooth; the clamping block having a second support including at least two inclined surfaces forming a generally V-shaped notches 45 that opens toward the clamp base when the ratchet arms are inserted into the openings, each of these inclined surfaces having a side; and at least one flexible cap 52 (Fig. 1) forming a curved surface in the notch (Fig. 1) placed over the two inclined surfaces forming one of the v-shaped notches and being interposed between the inclined surface.

Ismert discloses the cap extending over the notches but does not disclose expressly that the cap extending over a portion of the side of the corresponding inclined surfaces forming the notch (claim 1) or a center between the ends of the cap, which center does not abut either inclined surface (claim 67).

At the time the invention was made, it would have been obvious matter of design choice to a person of ordinary skill in the art to provide the cap extending over a portion of the side of the corresponding inclined surfaces forming the notch or provide a center of the cap that does not abut either inclined surface because Applicant has not disclosed that extending over a portion of the side of the corresponding inclined surfaces forming the notch or a center between the ends of the cap, which center does not abut either inclined surface provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the cap that does not extend over a portion of the side of the corresponding inclined surfaces forming the notch or a

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center between the ends of the cap, which center does not abut either inclined surface taught by Ismert because both appear to perform the same function of holding on to and secured to one of the first and second supports when the ratchet arms of pipe clamp are in place. Therefore it would have been an obvious matter of design choice to modify Ismert to obtain the invention as specified in claims 1 and 67-68.

As to claim 3, Ismert also teaches a cap 52 on each of the clamp base and clamping block (see col. 4, line 67 and Col. 5, lines 4).

As to claim 4, Ismert does not specifically express the hardness of the material of the cap to be 40-60 Shore A.

It would have been also an obvious matter of design choice to have provided the cap with the hardness degree of about 40-60 Shore A because Applicant has not disclosed that providing the cap with the hardness degree of about 40-60 Shore A provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the cap that has the hardness degree of about different than 40-60 Shore A taught by Ismert because both appear to perform the same function of holding strongly and securely to one of the first and second supports when the ratchet arms of pipe clamp are in place. Therefore it would have been an obvious matter of design choice to modify Ismert to obtain the invention as specified in claim 4. Nevertheless, the hardness of the material is depending on the hardness of the material from which the clamp is constructed and depending on how much to actually restrain

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the pipe when the ratchet arms are in place. These are considered to be unlimited.

Therefore it considered as an obvious matter of design choice.

As to claims 5-6, Ismert further teaches the cap being a removable cap, and wherein the v-shaped notches each have opposing sides and ends and the cap is shaped to fit over the opposing sides and ends of one of the V-shaped notches, a first hole (23, fig. 2) extending through the clamp base and located between the inclined surfaces of the base.

As to claim 15, Ismert also does not teach a rib on at least one ratchet arm extending substantial the length of the arm to strengthen the arm. To have added a rib on the ratchet arm extending substantially the length of the arm to strengthen the arm of Ismert would have also been obvious matter of design choice and well within the level of ordinary skill in the art since additional rib on the length of the arm to strengthen the arm would have performed the same function as the prior art which would allow firmly secured and/or rigid engagement with the clamping block, thereby providing structure as claimed.

As to claims 17 and 19, Ismert further teaches at least one resilient leg (see an alternative embodiment, Figs. 6-7 attached) and a flange 113 each extending in a direction opposite the ratchet arms, the flange and the arms being spaced at a distance sufficient to allow the leg to resiliently engage the support 82 when the flange abut the support, during use of clamp assembly; and wherein the flange is at right angles to the base and extending toward the arms.

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Ismert does not expressly disclose that the flange having at least one opening therethrough which opening is sized to allow passage of a fastener to fasten the flange to the support during use of the clamp assembly. However, to have provided a fastener to fasten the flange to the support to secure the clamp in place on the support is also considered obvious and well within the level of ordinary skill in the art to provide an alternative means of fastening for the same intended purpose. The use of fastener to fasten does not provide any unexpected result.

As to claim 18, wherein the leg has a distal end that is directed away from the flange.

As to claims 20, the pawl also formed by two adjacent slots 41, 42, 43 (Fig. 3) in a wall of the clamping block which wall defines a portion of the opening 32 in which the pawl is located, the slots extending to an opening onto a distal edge of the clamping block opposite a base of the pawl.

As to claim 22, Ismert also shows the elongated member being a pipe 24. Nevertheless, the elongate member is not a positive part of the claim therefore it also reads on Ismert.

As to claim 25, claim 25 recited limitations similar to those recited in claim 1, therefore also reads on Ismert

As to claim 26, wherein the cap means being made of resilient pad (col. 4, line 67), which is capable of reducing acoustic noise.

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As to claim 27, Ismert further teaches at least one resilient leg means (93, 94 on Fig. 7) on the base for releasably engaging a support during use of the clamping assembly.

As to claim 28, also further teaches comprising hole means (15, 23) for fastening the base to a structural support (21, Fig. 1) during use of clamping assembly.

Claim 29, Ismert teaches the whole clamp 1 is preferably made of molded plastic (col. 4, line 13)

As to claim 30, wherein the pawl is formed in a wall of the clamping block which wall defines the opening 32, the wall being formed by two parallel slots 41, 42, 43 (Fig. 3) in the wall, which slots extend to a distal edge of the opening.

As to claim 31, Ismert also shows the elongated member being a pipe 24, nevertheless, pipe is not a positive part of the claim, therefore it also reads on Ismert. As to claims 32-33, these claims are similar to those recited in claims 16-19 therefore also read on Ismert.

As to claim 62, the only different between claim 62 and claim 25 in that it recites means for temporary fastening the clamp base to the support the use of clamp assembly which also reads on Ismert as shown in Figs 6-7, either the flange 113 or legs 93, 94.

Claims 63-64 is also rejected for the same reasons as in claim 15.

Claims 51-61 recited limitations similar to those recited in claims 1 + 17 + 18 + 19 where the distance of the member (93, 94) being resiliently disposed toward the flange



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by a distance less than the width of the support (82) and the member has a distal end that is curved away from the flange.

Claims 7-9, 16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ismert as discussed above and further in view of US Patent no. 4,244,083 to Aremka et al.

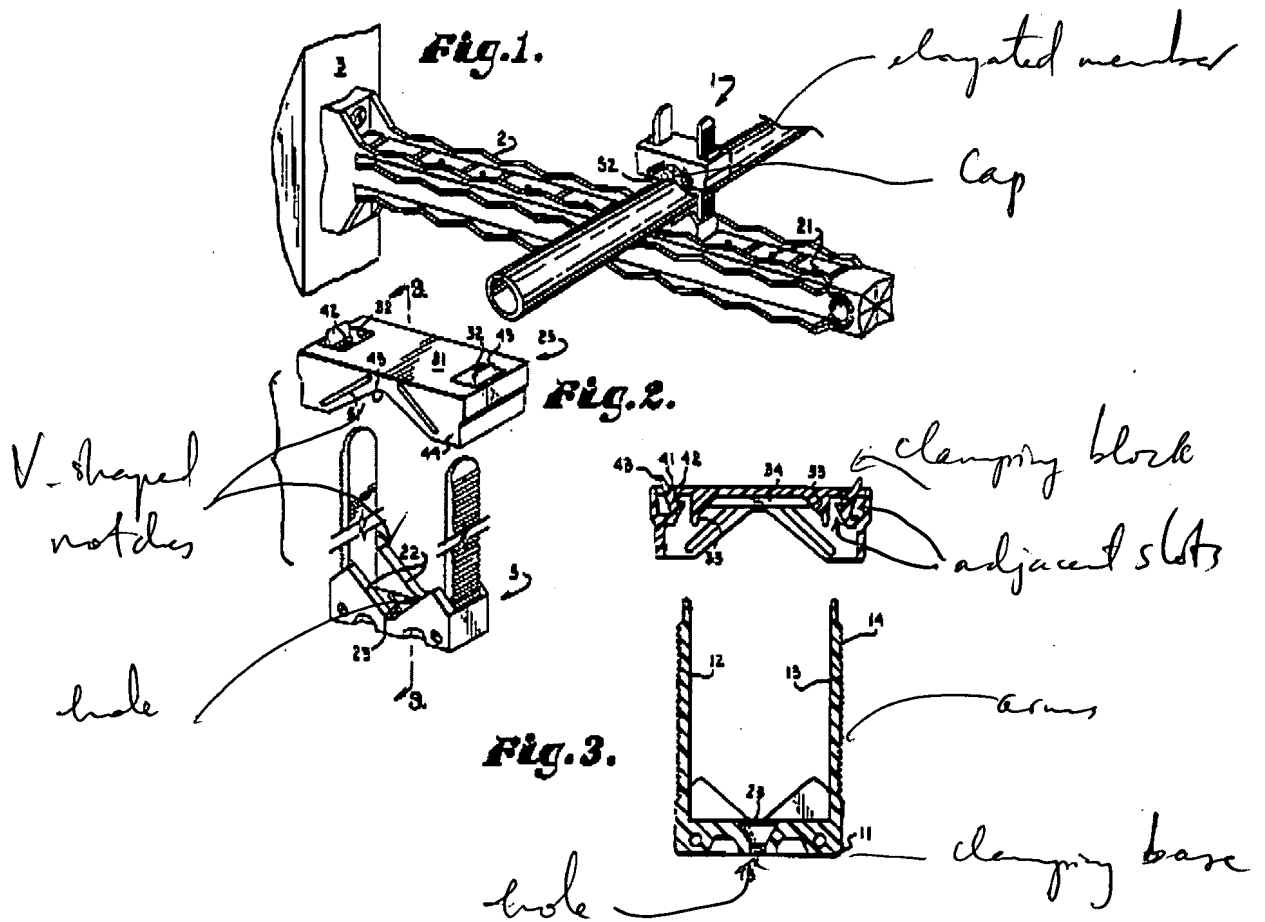
The Ismert device differs from claims 7-9 of the present invention in that it is not provided with a second hole extending through the clamping block wherein the second hole to be located at the center of the clamping block.

Aremka et al. teaches a second hole extending through the clamping block wherein the second hole to be located at the center of the clamping block. It would have been obvious to one of ordinary skill in the art at the time the invention to provide a second hole on the center of the clamping block as taught by Aremka et al. in order to allow a fastener to be secure the body member to a frame or other support structure (col. 2, lines 15-19).

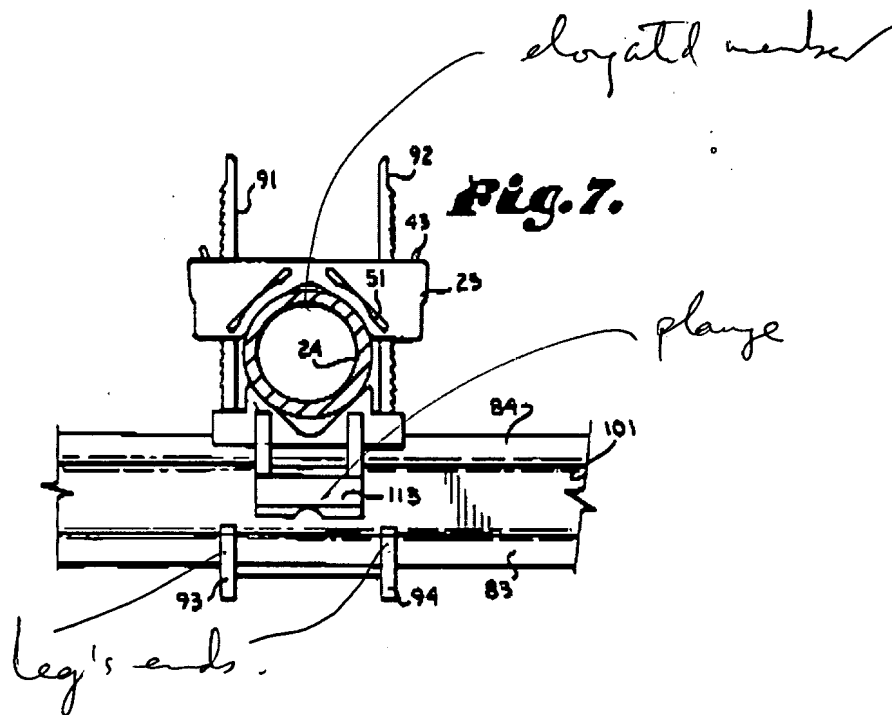
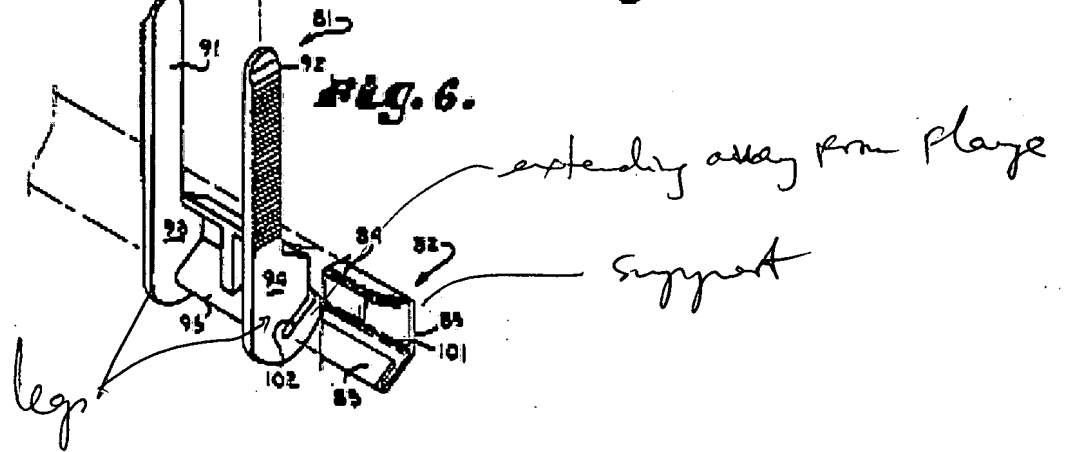
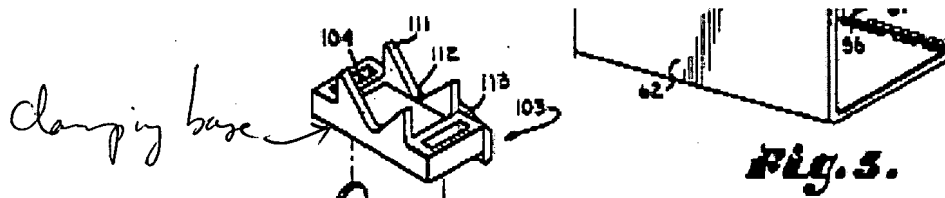
As to claim 8-9, Ismert as modified also teaches the first and second holes are co-axial.

As to claims 16 and 24, similar to claims 17 or 18 or 19 and 21, which also reads on Ismert.

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***Response to Amendment***

Applicant's amendment filed 11/13/06 have been considered and entered.

Applicant has further amended claims 1 and 5 by further defining the inclined surfaces having an exterior side and believes the amendment is to place the claims in better condition for allowance. However, upon a further consideration, the claims now have been rejected under a new ground as being patentable over Ismert and/or Ismert in view of Aremka et al. The previous rejections are thus considered moot.

***Conclusion***

**THIS ACTION IS MADE NON-FINAL.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tan Le  
June 14, 2007.



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